

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

TREVER DANIEL HARDER and
KYLIE RUBY FLORES,

Defendants.

Case No. 2:21-CR-0165-TOR

STIPULATED PROTECTIVE
ORDER REGARDING COMPUTER
FORENSIC REVIEW PROCEDURES
FOR CHILD PORNOGRAPHY
CONTRABAND

BEFORE THE COURT is the government's Stipulated Motion for Protective Order Regarding Computer Forensic Review Procedures for Child Pornography Contraband. ECF No. 37. The motion was submitted for hearing without oral argument. Having reviewed the file and the records therein, the Court is fully informed. Pursuant to the parties' stipulation and for good cause shown, the motion is GRANTED.

1. IT IS ORDERED that 18 U.S.C. § 3509(m) applies to this case, and the Court is required to deny defense requests to copy, photograph, duplicate, or otherwise reproduce material constituting child pornography if the government makes the material reasonably available to Defendant and provides an ample opportunity for the defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

2. IT IS FURTHER ORDERED that, in order to comply with 18 U.S.C. § 3509(m), and to allow each Defendant the greatest opportunity to prepare an effective

1 defense in preparation for trial in this matter, the government will make a forensic copy
2 or “image” of devices and media containing alleged child pornography contraband at
3 issue in the above-referenced case. The government will make any forensic images
4 reasonably available to each Defendant and provide ample opportunity for the defense
5 team to examine them at a government facility in Spokane, Washington. The parties
6 may readdress the Court if there is a need for additional or after-hours access during the
7 course of litigation in the event trial or motion hearings require additional forensic
8 review.

9 3. IT IS FURTHER ORDERED that each defense forensic examination may
10 be conducted in an interview room monitored by closed-circuit television (“CC-TV”),
11 without audio feed. If so, the TV with non-audio feed will ensure the integrity of
12 government agency space and security of its occupants, and will not be of sufficient
13 detail or at an angle that would reveal defense strategy. The government and its agents
14 will make no attempt to record any audio from the workstation and no attempt to
15 observe either defense team’s work product or computer monitor screen at any time.
16 Each defense expert may review the feed to ensure that defense strategy is not being
17 compromised at any time while conducting the forensic review.

18 4. IT IS FURTHER ORDERED that neither defense team¹ shall make, nor
19 permit to be made, any copies of the alleged child pornography contraband pursuant to
20 this Protective Order, nor will they remove any contraband images from the government
21 facility. Each defense expert will be allowed to copy any file that is not contraband and
22 compile a report (without contraband images/videos) documenting the examination on
23 removable media at the discretion of the defense expert.

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25 ¹ For purposes of this Protective Order, the term “defense team” refers solely to
26 Defendant’s counsel of record (“defense counsel”), Defendant’s designated expert
27 (“defense expert”), and a defense investigator.
28

1 5. IT IS FURTHER ORDERED that any defense counsel and/or designated
2 defense expert will leave at the government facility any equipment, including hard
3 drives, which contain child pornography contraband that is identified during forensic
4 evaluation.

5 6. IT IS FURTHER ORDERED that for the purpose of trial, the government
6 will make available a digital copy of any government trial exhibit that contains
7 contraband, which will be kept in the custody and control of the case agent. Upon
8 reasonable notice by the defense, the case agent will also maintain for trial digital copies
9 of any proposed defense exhibit that contains contraband. If the defense team intends to
10 offer, publish, or otherwise utilize any government or defense exhibit contained on the
11 digital copy maintained by the case agent during trial, the case agent shall assist the
12 defense team in publishing or utilizing the exhibit that contains contraband upon
13 reasonable notification by the defense team.

14 IT IS SO ORDERED. The Clerk shall enter this Order and provide copies to
15 counsel.

16 Dated January 6, 2022.



A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
United States District Judge